

रजिस्टर्ड नं० एम० एम० 14.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, 13 अगस्त, 1976/22 श्रावण, 1898

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-171002, the 11th August, 1976

No. 6-6/71-LR.—The Himachal Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Bill, 1975 (Bill No. 18 of 1975)

after having received the assent of the President of India on the 2nd August, 1976, is hereby published in the Rajpatra, Himachal Pradesh, as Act No. 32 of 1976.

M. C. PADAM,
Under Secretary.

Act No. 32 of 1976.

**THE HIMACHAL PRADESH ANCIENT AND HISTORICAL
MONUMENTS AND ARCHAEOLOGICAL SITES AND
REMAINS ACT, 1976**

AN
ACT

to provide for the preservation of ancient and historical monuments, archaeological sites and remains other than those of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1976.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may by notification appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'ancient and historical monument' means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or menolith, which is of historical, archaeological or artistic interest and which has been in existence for not less than one hundred years and includes—

- (i) the remains of an ancient and historical monument,
- (ii) the site of an ancient and historical monument,
- (iii) such portion of land adjoining the site of an ancient and historical monument as may be required for fencing or covering in or otherwise preserving such monument, and
- (iv) the means of access to, and convenient inspection of, and ancient and historical monument;

but does not include any ancient and historical monument declared by or under law made by Parliament to be of national importance;

(b) 'antiquity' includes—

- (i) any coin, sculpture, manuscript, epigraph or other work of art or craftsmanship,
- (ii) any article, object or thing detached from a building or cave,
- (iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in by-gone ages,
- (iv) any article, object or thing of historical interest, and
- (v) any article, object or thing declared by the Government by notification to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred year;

(c) 'archaeological officer' means an officer of the Government appointed for the purpose of exercising the powers conferred on, and performing the functions assigned to an archaeological officer

under this Act, and includes any other officer authorised by the Government to exercise and perform all or any of such powers and functions;

(d) 'archaeological sites and remains' means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance which have been in existence for not less than one hundred years, and includes—

(i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and

(ii) the means of access to, and convenient inspection of, the area;

but does not include any archaeological site or remains declared by or under law made by Parliament to be of national importance;

(e) 'director' means the Director of Archaeology and includes any other officer authorised by the Government to exercise the powers and perform the functions of the Director under this Act;

(f) 'Government' means the Government of Himachal Pradesh;

(g) 'maintain' with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and organising of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or for securing convenient access thereto;

(h) 'owner' includes—

(i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner, and

(ii) any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;

(i) 'prescribed' means prescribed by rules made under this Act;

(j) 'protected area' means any archaeological site and remains which is declared to be a protected area by or under this Act; and

(k) 'protected monument' means an ancient or historical monument which is declared to be a protected monument by or under this Act.

PROTECTION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS

3. All ancient and historical monuments and all archaeological sites and remains which have been declared by the Ancient Monuments Preservation Act, 1904 to be protected monuments or protected areas respectively, but which have not been declared by or under the law made by Parliament to be of national importance, shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be protected monuments or areas for the purposes of this Act.

4. (1) Where the Government is of opinion that any ancient and historical monument or archaeological site and remains, which has not been declared by or under the law made by Parliament to be of national importance and which is not included in section 3 requires protection under this Act, it may by notification give two months' notice of its intention to declare such ancient and historical monument or archaeological site and remains to be a protected monument or protected area, as the case may be, and a copy of every such notification shall be affixed in a conspicuous place near the monument or the site and remains, as the case may be.

Certain ancient and historical monuments, etc. deemed to be protected monuments or areas.

Power of Government to declare ancient monuments etc., to be protected monuments and areas.

(2) Any person interested in any such ancient and historical monument or archaeological site and remains may within two months after the issue of the notification under sub-section (1), object to the declaration of the monument or the archaeological site and remains to be a protected monument or a protected area.

(3) On the expiry of the said period of two months the Government may, after considering the objection, if any, received by it, declare by notification the ancient and historical monument or the archaeological site and remains, as the case may be, to be a protected monument or a protected area.

(4) A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient and historical monument or the archaeological site and remains to which it relates is a protected monument or a protected area for the purposes of this Act.

PROTECTED MONUMENTS

5. (1) The Director may, with the sanction of the Government, purchase, or take a lease of, or accept a gift or bequest of, any protected monument.

Acquisition
of rights in
a protected
monument.

(2) Where a protected monument is without an owner, the Director may by notification assume the guardianship of the monument.

(3) The owner of any protected monument may, by written instrument, constitute the Director the guardian of the monument, and the Director may, with the sanction of the Government, accept such guardianship.

(4) When the Director has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted a guardian thereof, and the provisions of this Act relating to agreements executed under section 6 shall apply to the written instrument executed under sub-section (3).

(5) Nothing in this section shall affect the use of any protected monument for customary religious observances.

6. (1) The Director, when so directed by the Government, shall propose to the owner of a protected monument to enter into an agreement with the Government within a specified period for the maintenance of the monument.

Preservation
of protected
monument
by agree-
ment.

(2) Any agreement under this section may provide for all or any of the following matters, namely:—

- (a) the maintenance of the monument;
- (b) the custody of the monument and the duties of any person who may be employed to watch it;
- (c) the restriction of the owner's right—
 - (i) to use the monument for any purpose,
 - (ii) to charge any fee for entry into, or inspection of, the monument,
 - (iii) to destroy, remove, alter or deface the monument, or
 - (iv) to build on or near the site of the monument;

- (d) the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed any archaeological officer or other officer or authority authorised by the Government to inspect or maintain the monument;
- (e) the notice to be given to the Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market value;
- (f) the payment of any expenses incurred by the owner or by the Government in connection with the maintenance of the monument;
- (g) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the Government in connection with the maintenance of the monument;
- (h) the appointment of an authority to decide any dispute arising out of the agreement; and
- (i) any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the Government.

(3) The Government or the owner, may, at any time, after the expiration of three years from the date of execution of any agreement under this section, terminate it on giving six months' notice in writing to the other party:

Provided that where the agreement is terminated by the owner, he shall pay to the Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

(4) An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

Persons competent to exercise powers of owner under section 6 in respect of a protected monument, when owner is under disability or when it is a village property.

7. (1) If the owner of a protected monument is unable, by reason of minority, or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 6.

(2) In the case of a protected monument which is a village property, the Panchayat for the village where such property vests in the Panchayat or, where such property does not vest in a Panchayat any village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 6.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

Application for endowment to repair a protected monument.

8. (1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others the Government may institute a suit in the court

of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge, for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence apperars to him necessary and may pass an order for the proper application of the endowment or any part thereof, and any such order may be executed as if it were a decree of a civil court.

9. (1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the Government may make an order providing for all or any of the matters specified in sub-section (2) of section 6, and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person.

Failure or refusal to enter into an agreement.

(2) Where an order made under sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the Government.

(3) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing against the proposed order.

10. (1) If the Director apprehends that the owner or occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement executed under section 6, the Director may, after giving the owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement:

Power to make order prohibiting contravention of agreement under section 6.

Provided that no such opportunity may be given in any case where the Director, for reasons to be recorded, is satisfied that it is not expedient or practicable to do so.

(2) Any person aggrieved by an order made under this section may appeal to the Government within such time and in such manner as may be prescribed and the decision of the Government shall be final.

11. (1) If an owner or other person who is bound to maintain a monument by an agreement executed under section 6 refuses or fails, within such reasonable time as the Director may fix, to do, any such act which in the opinion of the Director is necessary for the maintenance of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement.

Enforcement of agreement.

(2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the Government whose decision on such reference shall be final.

Purchasers at certain sales and persons claiming through owner bound by instruments executed by owner.

12. Every person who purchases, at a sale for arrears of land revenue or any other public demand, any land on which is situated a monument in respect of which any instrument has been executed by the owner for the time being under section 5 or section 6, and every person claiming any title to a monument from, through or under an owner who executed any such instrument shall be bound by such instrument.

Acquisition of protected monument.

13. If the Government apprehends that a protected monument is in danger of being destroyed, injured, misused or allowed to fall into decay, it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894, as if the maintenance of the protected monument were public purpose within the meaning of that Act.

Maintenance of certain protected monuments.

14. (1) The Government shall maintain every monument which has been acquired under section 13 or in respect of which any of the rights mentioned in section 5 have been acquired.

(2) When the Director has assumed the guardianship of a monument under section 5 he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself or by his agent, subordinates and workmen, for the purpose of inspecting the monument or for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

Voluntary contributions.

15. The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give such general or special directions as he considers necessary for the management and application of the contributions so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protection of place of worship from misuse, pollution or desecration.

16. (1) A protected monument maintained by the Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.

(2) Where the Government has acquired to a protected monument under section 13, or where the Director has purchased or taken a lease or accepted a gift or bequest or assumed guardianship, of a protected monument under section 5, and such monument or any part thereof is used for religious worship or observances by any community, the Director shall make due provision for the protection of such monument or part thereof from pollution or desecration:—

(a) by prohibiting the entry therein except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(b) by taking such other action as he may think necessary in this behalf.

Relinquishment of Government rights in a monument.

17. With the sanction of the Government the Director may—

(a) where rights have been acquired by the Director in respect of monument under this Act by virtue of any sale, lease, gift or will,

relinquish by notification the rights so acquired to the person who would for the time being be the owner of the monument as if such rights had not been acquired; or

(b) relinquish any guardianship of a monument which he has assumed under this Act.

18. Subject to any rules made under this Act, the public shall have a right of access to any protected monument.

Rights of access to protected monuments.

PROTECTED AREAS

19. (1) No person, including the owner or occupier of a protected area shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting, or any operation of a like nature in such area or utilise such area or any part thereof in any other manner without the permission of the Government:

Restrictions on enjoyment of proprietary rights in protected areas.

Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for the purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

(2) The Government may by order direct that any building constructed by the person within a protected area in contravention of the provisions of sub-section (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Director may cause the building to be removed and the person shall be liable to pay the cost of such removal.

20. If the Government is of opinion that any protected area contains any ancient and historical monument or antiquity of any interest and value, other than national interest and value, it may acquire such area under the provisions of the Land Acquisition Act, 1894, as if the acquisition were for a public purpose within the meaning of that Act.

Power to acquire protected areas.

ARCHAEOLOGICAL EXCAVATIONS

21. Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, an archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf under this Act (hereinafter referred to as the licensee) may, after giving notice in writing the Director and the owner, enter upon and make excavations in any protected area.

Excavations in protected areas.

22. Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, where an archaeological officer has reason to believe that any area, not being a protected area, contains ruins or relics of historical or archaeological importance, he or an officer authorised by him in this behalf may, after giving notice in writing to the Director and the owner, enter upon and make excavations in the area.

Excavations in areas other than protected areas.

23. (1) Where, as a result of any excavations made in any area under section 21 or section 22, any antiquities are discovered the archaeological officer or the licensee, as the case may be, shall;—

Compulsory purchase of antiquities, etc., discovered during excavation operations.

(a) as soon as practicable examine such antiquities and submit a report to the Government in such manner and containing such particulars as may be prescribed;

1 of 1894

24 of 1958

(b) at the conclusion of the excavation operations, give notice in writing to the owner of the land from which such antiquities have been discovered, as to the nature of such antiquities.

(2) Until an order for the compulsory purchase of any such antiquities is made under sub-section (3), the archaeological officer or the licensee, as the case may be, shall keep them in such safe custody as he may deem fit.

(3) On receipt of a report under sub-section (1), the Government may make an order for the compulsory purchase of any such antiquities at their market value.

(4) When an order for the compulsory purchase of any antiquities is made under sub-section (3), such antiquities shall vest in the Government with effect from the date of the order.

Excavations
etc., for ar-
chaeological
purposes.

24. Subject to the provisions of section 21 and save as provided in sections 22 and 23, no archaeological officer or other authority shall undertake or authorise any person to undertake any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the Government and in accordance with such rules or directions, if any, as the Government may make or give in this behalf.

PROTECTION OF ANTIQUITIES

Power of
Government
to control
moving of
antiquities.

25. (1) If the Government considers that any antiquities or class of antiquities ought not to be moved from the place where they are without its sanction, the Government may by notification direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director.

(2) Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) Any person aggrieved by an order refusing permission may appeal to the Government whose decision shall be final.

Purchase of
antiquities
by Govern-
ment.

26. (1) If the Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 25, is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place, the Government may make an order for the compulsory purchase of such antiquity at its market value and the Director shall thereupon give notice to the owner of the antiquity to be purchased.

(2) Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity, such antiquity shall vest in the Government with effect from the date of the notice.

(3) The power of compulsory purchase given by this section shall not extend to any image or symbol actually used for bona fide religious observances.

PRINCIPLES OF COMPENSATION

Compensa-
tion for loss
or damage.

27. Any owner or occupier of land who had sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act, shall be paid compensation by the Government for such loss, damage or diminution of profits.

28. (1) The market value of any property which the Government is empowered to purchase at such value under this Act, or the compensation to be paid by the Government in respect of anything done under this Act, shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894, so far as they can be made applicable:

Assessment of market value or compensation.

Provided that when making an enquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors one of whom shall be competent person nominated by the Government and one person nominated by the owner, or, in case the owner fails to nominate an assessor within such time as may be fixed by the Collector in this behalf, by the Collector.

(2) Notwithstanding anything in sub-section (1) or in the Land Acquisition Act, 1894 in determining the market value of any antiquity in respect of which an order for compulsory purchase is made under sub-section (3) of section 23 or under sub-section (1) of section 26, any increase in the value of the antiquity by reasons of its being of historical or archaeological importance shall not be taken into consideration.

MISCELLANEOUS

29. The Government may by notification direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction, be exercisable also by such official or authority subordinate to the Government as may be specified in the direction.

Delegation of powers.

30. (1) Whoever—

- (i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or
 - (ii) being the owner or occupier of a protected monument, contravenes an order made under sub-section (1) of section 9 or under sub-section (1) of section 10, or
 - (iii) removes from a protected monument any sculpture, carving, image, bas-relief, inscription of other like objects, or
 - (iv) does any act in contravention of sub-section (1) of section 19,
- shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 25, shall be punishable with fine which may extend to five thousand rupees, and the court convicting a person of any such contravention may, by order, direct such person to restore the antiquity to the place from which it was moved.

31. No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

Jurisdiction to try offences.

32. Notwithstanding anything in the Code of Criminal Procedure, 1973, an offence under clause (i), or clause (iii) of sub-section (1) of section 30, shall be deemed to be a cognizable offence within the meaning of that Code.

Certain offences to be cognizable.

Recovery of amount due to the Government.

33. Any amount due to the Government from any person under this Act may, on a certificate issued by the Director or an Archaeological Officer authorised by him in this behalf, be recovered in the same manner as an arrear of land revenue.

Ancient monuments, etc. no longer requiring protection

34. If the Government is of opinion that it is no longer necessary to protect any ancient or historical monument or archaeological site and remains under the provisions of this Act, it may by notification declare that the ancient and historical monument or archaeological site and remains, as the case may be, has ceased to be a protected monument or a protected area for the purposes of this Act.

Power to correct mistakes.

35. Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient and historical monument or archaeological site and remains declared to be protected monument or a protected area, by or under this Act may, at any time, be corrected by the Government by notification.

Protection of action taken under the Act.

36. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.

Power to make rules.

37. (1) The Government may, by notification and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of building on a land adjoining such monument and the removal of unauthorised buildings;
- (b) the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities by whom, and the restrictions and conditions subject to which, such licences may be granted, the taking of securities from licensees and the fees that may be charged for such licences;
- (c) the right of access of the public to a protected monument and the fee, if any, to be charged therefor;
- (d) the form and contents of the report of an archaeological officer or a licensee under clause (a) of sub-section (1) of section 23;
- (e) the form in which applications for permission under section 19 or section 25 may be made and the particulars which they shall contain;
- (f) the form and manner of preferring appeals under this Act, the fees to be paid therefor and the time within which they may be preferred;
- (g) the manner of service of any order or notice under this Act;
- (h) the manner in which excavations and other like operations for archaeological purposes may be carried on;
- (i) any other matter which is to be or may be prescribed.

(3) Any rule made under this section may provide that a breach thereof shall be punishable;

- (i) in the case of rule made with reference to clause (a) of sub-section (2), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both;
- (ii) in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five hundred rupees;
- (iii) in the case of a rule made with reference to clause (c) of sub-section (2), with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

7 of 1904

38. (1) The Ancient Monuments Preservation Act, 1904 shall cease to have effect in relation to ancient and historical monuments and archaeological sites and remains declared or deemed to be declared by or under this Act to be protected monuments or protected areas, except as respects things done or omitted to be done before the commencement of this Act.

Repeal and Savings.

20 of 1964
31 of 1966

(2) The Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that anything ~~done~~ or any action taken, including rules made, notifications issued or proceedings commenced or continued under the provisions of the Act hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

24 of 1958

(3) Nothing in this Act shall apply to ancient and historical monuments or archaeological sites and remains declared by or under law made by the Parliament to be of national importance or to any antiquities to which the Ancient Monuments and Archaeological Sites and Remains Act, 1958, applies.

Simla-171002, the 11th August, 1976

No LLR-D(6)10/76.—The Himachal Pradesh Debt Reduction Bill, 1976 (Bill No. 19 of 1976) after having received the assent of the President of India on the 2nd August, 1976, is hereby published in the Rajpatra, Himachal Pradesh, as Act No. 31 of 1976.

M. C. PADAM,
Under Secretary (Judicial).

Act No. 31 of 1976

THE HIMACHAL PRADESH DEBT REDUCTION ACT, 1976

AN

ACT

to provide for the Reduction of Debt in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Debt Reduction Act, 1976.

Short title,
extent and
commence-
ment.

(2) This Chapter and Chapters III to V shall extend to the whole of Himachal Pradesh and Chapter II to such areas as the State Government may, from time to time by notification, direct.

(3) This Act shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(i) “bank” has the meaning assigned to it in the Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972;

(ii) “Collector” means the Collector of the District or any officer specially empowered by the State Government to discharge the functions of a Collector for the purposes of this Act;

(iii) “co-operative society” means a society registered or deemed to be registered under the provisions of the Himachal Pradesh Co-operative Societies Act, 1968;

(iv) “court” means a civil court;

(v) “creditor” in Chapter V means person who, in the regular course of business, advances a loan as defined in this Act and includes the legal representatives and the successors in interests whether by inheritance, assignment or otherwise, of a creditor;

(vi) “decree to which this Act applies” means a decree passed either before or after the commencement of this Act in a suit to which this Act applies;

(vii) “interest” means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specially by way of interest or usufruct services to be rendered or otherwise;

(viii) “Financial Commissioner” means the Financial Commissioner of Himachal Pradesh for the time being and includes any officer specially empowered by the State Government to exercise the powers of the Financial Commissioner under this Act;

- (ix) "loan" means an advance in cash or kind and includes any transaction which in substance amounts to such advance but does not include an advance by the Central or State Government or by a local authority authorised by the State Government to make advances, by a co-operative society or by a bank or by the Life Insurance Corporation of India or a loan taken or used for the purposes of trade;
- (x) "prescribed" means prescribed by rules made under this Act;
- (xi) "principal" means the amount originally advanced;
- (xii) "State Government" means the Government of Himachal Pradesh;
- (xiii) "suit to which this Act applies" means any suit or proceedings relating to a loan;
- (xiv) "debtor" means a person who receives a loan as defined under this Act;
- (xv) "Commissioner" means the Commissioner Revenue of Himachal Pradesh or any officer specially empowered by the State Government to exercise the powers of the Commissioner under this Act;
- (xvi) "notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh.

CHAPTER II

INSOLVENCY PROCEDURE

Amendment of section 10 of the Provincial Insolvency Act, 1920.

3. In sub-section (1) of section 10 of the Provincial Insolvency Act, 1920, after the existing clause (a) the following clause shall be inserted:—

5 of 19

"(aa) his debts amount to two hundred and fifty rupees, and he satisfies the court that he is entitled to summary administration of his estate under section 74 of this Act; or".

Amendment of section 74 of the Provincial Insolvency Act, 1920.

4. In section 74 of the Provincial Insolvency Act, 1920, for the words "five hundred rupees" the words "two thousand rupees" shall be substituted.

5 of 19

CHAPTER III

SUITS AND DECREES

Forum of suits.

5. Notwithstanding anything contained in any other law for the time being in force, every suit to which this Act applies, shall be instituted in a court within the local limits of the jurisdiction of which,—

- (a) the defendant or, if there are more than one, any of the defendants resides; or
- (b) in case the defendant or, if there are more than one, all the defendants, reside outside the limits of Himachal Pradesh,—
 - (i) the holding or the land of the defendant or, if there are more than one, of any of the defendants is situate; or
 - (ii) the defendant or, if there are more than one, any of the defendants carries on trade or profession.

Debtor's right to sue.

6. Notwithstanding the terms of any contract regarding the date or dates on which a debt shall become due, a suit to which this Act applies for

the redemption of a mortgage or for accounts may be instituted by a debtor at any time after the commencement of this Act.

7. (1) Notwithstanding the provisions of any decree or of any law for the time being in force, a person liable to pay the amount due under a decree to which this Act applies, may apply to the civil court, which passed the decree or to which the execution of the decree has been transferred, for the amendment of the decree by reduction, according to the provisions of this Act, of the amount due under it, and on receipt of such application the court shall after notice to the opposite party, calculate the amount due from the applicant in accordance with the provisions of sections 8 and 9 and shall amend the decree accordingly.

Amendment of decree.

(2) A decree amended under the provisions of sub-section (1) shall be deemed to bear the date of the original decree.

(3) In amending a decree under the provisions of this Act the court shall accept the findings on which the decree was passed except in so far as they are inconsistent with the provisions of sections 8 and 9.

8. (1) In a suit to which this Act applies or in an application made in a suit to which this Act applies or in amending a decree under the provisions of section 7, the court shall, notwithstanding anything to the contrary in any law, decree or contract or in any agreement purporting to close past transactions, determine the principal and take into account all sums paid by or on behalf of the debtor and in the case of a mortgage with possession, the net profits realised by the mortgagee or which with the exercise of ordinary diligence might have been realised by him and shall determine the amount, if any, due by the debtor in accordance with the provisions of sub-sections (2) and (3):

Accounting and determination of the amount due.

Provided that for the purpose of determining the principal, the court shall treat as principal any accumulated interest which has been converted into principal at any statement, settlement of account or any contract in the course of transaction made before the first day of January, 1917 but shall treat as interest any accumulated interest which has been converted as aforesaid at any such statement, settlement or contract made on or after that date.

(2) The amount due by the debtor shall not exceed the amount that could have been due if the rate of interest had been, in the case of a secured loan 6 per cent per annum simple interest, and in the case of unsecured loan 12 per cent per annum simple interest.

(3) The total amount due by the debtor as interest and principal shall not in any case, exceed—

(a) in respect of a loan advanced before the commencement of this Act, twice the amount of the principal less any amount already received by the creditor in excess of the amount due under sub-section (2);

(b) in respect of a loan advanced after the commencement of this Act, twice the amount of principal less any amount already received by the creditor.

(4) Nothing in this section shall entitle the debtor to a refund of any sum already paid by him.

Rate of interest on decrees.

9. (1) Notwithstanding anything contained in section 34 of the Code of Civil Procedure, 1908, the court shall not order future interest on the aggregate sum adjudged in a decree to which this Act applies or any decree amended under the provisions of this Act, at a rate exceeding three per cent per annum simple interest:

5 of 1908

Provided that where future interest has not been allowed in the original decree it shall not be allowed in the decree amended under the provisions of this Act.

(2) If in a decree to be amended under the provisions of this Act, a higher rate of future interest has been allowed by the court passing the decree, such rate shall, with effect from the date of the decree, be reduced to a rate permitted by the provisions of sub-section (1) and the decree shall be amended accordingly.

(3) When a decree is executed by the grant of a mortgage under the second proviso to sub-section (1) of section 11 then, notwithstanding a different rate in the decree, the rate of interest shall, from the date when such mortgage is granted, be deemed to be three per cent per annum.

CHAPTER IV EXECUTION OF DECREES

Attachment of agricultural produce restricted.

10. Notwithstanding anything in the Code of Civil Procedure, 1908 not more than one fourth of the agricultural produce of a judgment-debtor shall be liable to attachment in execution of a decree to which this Act applies.

5 of 1908

Protection of Agricultural land of debtor from sale or transfer.

11. (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, a final decree for foreclosure shall not be passed in respect of the agricultural land of a debtor in a suit to which this Act applies. Nor shall such land be sold or otherwise transferred in execution of a decree to which this Act applies:

Provided that the court may execute a decree to which this Act applies by granting to the decree-holder a self liquidating usufructary mortgage of such land for such period as the Collector may decide under sub-section (4), subject to the provisions of sections 16 and 17:

“Provided also that when a mortgage has been granted under the provisions of this section, the same land shall not be mortgaged in execution of any other decree to which this Act applies against the same debtor or his heir or successor if the term of the mortgage together with the term or terms of the previous mortgage or mortgages exceed twenty years.

(2) The form, terms and conditions of a mortgage granted under the first proviso to sub-section (1) and the amount to be paid by the debtor at any time for the redemption of such mortgage shall be such as may be prescribed.

(3) Notwithstanding anything contained in the Code of Civil Procedure 1908 or any other law for the time being in force, whenever a civil court orders that the land be attached and alienated temporarily in the execution of a decree for the payment of money, the proceedings of such attachment and alienation shall be transferred to the Collector.

5 of 1908

(4) On the proceedings being transferred to him by the civil court the Collector shall decide the period of alienation, which shall not exceed twenty years and shall inform the civil court of his decision as well as of the decision or order under sections 16 and 17.

12. (1) Where several persons holding decrees to which this Act applies, move the court before it has granted mortgage under section 11 for execution of their decrees by grant of a mortgage of agricultural land, the court shall, subject to the provisions of that section, observe the following principles in executing the decrees:—

Procedure where several decrees are executed simultaneously.

- (a) when any such decree is based on a loan, the payment of which is already secured by a mortgage of the whole or part of the agricultural land (hereinafter described as secured decree), the holder of such decree shall first be granted a mortgage of the agricultural land already mortgaged to him, and the holder of a decree based on an unsecured loan (hereinafter described as an unsecured decree) shall be granted a mortgage of the remaining agricultural land, if any;
- (b) when there are more than one secured decrees and also unsecured decrees—
 - (i) if different portions of the agricultural land are mortgaged in the secured decrees, the holder of each such decree shall be granted a mortgage of the portion which is already mortgaged to him;
 - (ii) if the same agricultural land is mortgaged in more than one decree, mortgages shall be granted to the holder of such decree in order of their priority; and
 - (iii) if after the grant of mortgages under sub-clauses (i) and (ii) there remains any agricultural land free from such mortgages, the holders of the unsecured decree shall be granted mortgages thereof;
- (c) as among persons holding unsecured decrees, such persons shall subject to the provisions of clause (b) each be granted simultaneously mortgages of rateable shares of the agricultural land in such manner as may be prescribed.

(2) Where a decree is executed by the grant of a mortgage under the provision of the first proviso to sub-section (1) of section 11, the court shall grant a certificate of mortgage with such particulars as may be prescribed and shall follow the procedure laid down in sub-section (2) of section 89 of the Indian Registration Act, 1908, as if such certificate was a certificate of the sale of immoveable property and the registering officer shall file the copy of the certificate in his book No. 1. Such certificate of mortgage shall be exempted from stamp duty.

13. No decree to which this Act applies shall be executed by the transfer of trees on agricultural land unless the land on which such trees stand is also transferred.

Trees protected from sale.

14. The provisions of the Code of Civil Procedure, 1908, save in so far as they are not inconsistent with the provisions of this Act, shall apply to all proceedings under this Act.

Application of the Code of Civil Procedure, 1908.

- Collector deemed to be acting judicially. 15. The Collector when acting under section 11, shall be deemed to be acting judicially and shall act in accordance with the provisions of law applicable to the civil courts.
- Appeal to the Commissioner who shall be deemed to be acting judicially. 16. Any party aggrieved by an order of the Collector made under the provisions of this Act, shall have a right of appeal to the Commissioner who shall, when hearing appeals under this section, be deemed to be acting judicially and shall act in accordance with the provisions of law applicable to a civil court of appeal.
- Powers to the Financial Commissioner to examine legality or propriety of the orders passed by the Collector or Commissioner. 17. The Financial Commissioner may, at any time, call for and examine the record of any order passed or proceedings taken by the Collector or the Commissioner under this Act, for the purpose of satisfying himself as to the legality or propriety of such order or such proceedings and may pass such order thereon as he may think fit.
- Limitation for appeals. 18. The period of limitation for an appeal under section 16 shall run from the date of the order appealed against and shall be sixty days.
- Exemption from attachment or sale. 19. Notwithstanding anything contained in the Code of Civil Procedure, 1908, no decree for the payment of money shall be executed by the sale without attachment, or by the appointment of a receiver of land or the produce of land or an interest in land, which under any law for the time being in force, is exempted from attachment or sale.
- Immunity from arrest. 20. No debtor as defined in section 2 of this Act shall be arrested or imprisoned in execution of a decree for money, whether passed before or after the commencement of this Act.
- Amendment of section 60 of the Code of Civil Procedure, 1908. 21. In section 60 of the Code of Civil Procedure, 1908—
 (a) in sub-section (1) in the proviso,—
 (i) in clause (c), for the words “occupied by him” the following words shall be deemed to be substituted, namely:—
 “not proved by the decree-holder to have been let out on rent or lent to persons other than his father, mother, wife, son, daughter, daughter-in-law, brother, sister or other dependants or left vacant for a period of a year or more”.
 (ii) after clause (c), the following clauses shall be deemed to be inserted, namely:—
 “(cc) milch animals whether in milk or in-calf, kids, animals used for the purposes of transport or draught cart and open spaces or enclosures belonging to an agriculturist and required for use in case of need for tying cattle, parking carts or stacking fodder or manure;

(ccc) one main residential house and other buildings attached to it (with the material and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to a judgment-debtor other than an agriculturist and occupied by him:

Provided that the protection afforded by this clause shall not extend to any property specifically charged with the debt sought to be recovered."

(b) after sub-section (2) the following sub-sections shall be deemed to be inserted, namely:—

"(3) Notwithstanding any other law for the time being in force, an agreement by which a debtor agrees to waive any benefit of any exemption under this section shall be void.

(4) For the purposes of this section the word "agriculturist" shall include every person whether as owner, tenant, partner or agricultural labourer who depends for his livelihood mainly on income from agricultural land.

(5) No order for attachment shall be made unless the court is satisfied that the property sought to be attached is not exempt from attachment or sale."

CHAPTER V

MISCELLANEOUS

22. (1) A debtor may sue for an account of a loan.

Suit for account of money lent.

(2) In such suit, the court shall allow only such interest as may be permissible under this Act. It shall after taking necessary accounts, declare the account which is still payable by the plaintiff to the defendant and shall on the application of the defendant, if the money is payable, pass a decree in favour of the defendant:

Provided that the court shall determine the value of the service rendered in lieu of interest in the prescribed manner.

(3) Notwithstanding anything in the Himachal Pradesh Court Fees Act, 1968, the court fee payable on a plaint in a suit under sub-section (1) shall be that prescribed by schedule and the fee payable on an application under sub-section (2) shall be the amount, if any, by which the fee payable on a plaint in suit for the recovery of the amount declared under that sub-section exceeds, the fee already paid by the plaintiff on the plaint.

23. (1) Any person who owes money may at any time deposit in court a sum of money in full or part payment to his creditor.

Deposit in Court.

(2) The court on receipt of this deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

24. (1) A creditor shall, after the date on which this Act comes into force,—

Duty of creditor to maintain and furnish accounts.

(a) regularly record and maintain a correct account for each debtor of all transactions relating to each loan advanced to that debtor, in the prescribed manner, and

(b) supply each debtor every six months with a full and correct statement of account signed by the creditor or his agent in such form and on such date as may be prescribed.

(2) A person to whom a statement of account has been submitted under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of the correctness of the account.

(3) The account prescribed in clause (a) of sub-section (1) shall be deemed to be regularly kept in the course of business for the purpose of section 34 of the Indian Evidence Act, 1872, and copies of entries in such accounts certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

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Penalty for non-compliance with the provisions of section 24.

25. Notwithstanding anything contained in any other enactment for the time being in force—

- (a) in any suit or proceeding relating to a loan if the debtor objects that the creditor has not complied with the provisions of section 24, the court shall determine such objections before deciding the claim on merits;
- (b) if the court finds that the provisions of clause (a) of sub-section (1) of section 24 have not been complied with by the creditor, it may, if the creditor's claim has been established in whole or in part, disallow the whole or a portion of the interest found due, as it may deem reasonable in the circumstances of the case, and shall disallow the cost;
- (c) if the court finds that the provisions of clause (b) of sub-section (1) of section 24 have not been complied with by the creditor the court shall, in computing the amount of interest due on the loan, exclude every period for which the creditor has failed to comply with such provisions:

Provided that if the creditor has, after the time prescribed in the said clause, furnished the account and satisfied the court that he had sufficient cause for not furnishing it earlier, the court, notwithstanding such omission, shall include any such period or periods for the purpose of computing the interest:

Provided further that if the creditor has submitted an account which is not full and correct, and satisfies the court that the omission or error was *bonafide* and due to inadvertence, the court shall, notwithstanding such omission or error, include any such period or periods for purpose of computing interest.

Explanation.—A person who has kept his accounts and submitted his six monthly statement of accounts in the form and manner prescribed in clauses (a) and (b) of sub-section (1) of section 24, he shall be held to have complied with the provisions of these clauses in respect of any errors or omissions if the court finds that the errors or omissions were accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

26. (1) Any creditor who, after the commencement of this Act, records in his book of accounts or in the statement of account submitted to the debtor as lent to a debtor a sum larger than actually lent, whether by way of charges for expenses, inquiries, fines, bonus, premia, renewals, or otherwise, shall be punished for the first offence with fine which may extend to one hundred rupees, and for a second or subsequent offence with regard to the same or any other debtor with fine which may extend to five hundred rupees.

Penalty for entering in books of accounts a sum larger than actually lent and for not giving receipts.

(2) Where in any suit concerning a loan taken by a debtor, the court finds that the creditor has, without reasonable cause, refused or neglected to deliver to the debtor a receipt for any payment by him on account of such loan or to credit such payment on the written instrument securing such loan, it may award the debtor such compensation not exceeding double the amount of such payment as it may consider proper.

27. The provisions of sections 24 to 26 shall not, in the case of a loan advanced before the commencement of this Act, apply to the period prior to the commencement of this Act.

Saving in cases of previous loans.

28. Notwithstanding anything to the contrary contained in any other enactment for the time being in force the burden of proving that any consideration alleged to have been paid by a money-lender has actually passed, shall be on him, unless the consideration is acknowledged by a debtor in his own handwriting or has been endorsed by the registering officer acting under clause (c) of sub-section (1) of section 58 of the Indian Registration Act, 1908, as having been paid in his presence.

Burden of proof of considerations.

29. (1) The State Government may make rules consistent with this Act for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. The Himachal Pradesh Debt Reduction Act, 1953 as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, the Punjab Relief of Indebtedness Act, 1934 and the Punjab Debtors' Protection Act, 1936 in their application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed:

Repeal and savings.

Provided that anything done or any action taken, notification issued or rules made under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act shall be deemed to have been done or taken, issued or made in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, notification issued or rules made.

SCHEDULE

SCHEDULE OF COURT FEE PAYABLE ON PLAINT UNDER SECTION 22

	Rs.
If the principal amount of loan is less than Rs. 100 ..	5.00
If the principal amount of loan is not less than Rs. 100 but is less than Rs. 250 ..	7.50
If the principal amount of loan is not less than Rs. 250 but less than Rs. 500 ..	15.00
If the principal amount is not less than Rs. 500 but less than Rs. 1,000 ..	30.00
If the principal amount of loan is Rs. 1,000 or above ..	50.00

Simla-171002, the 11th August, 1976

No.5-3/72-LR.—The Himachal Pradesh New Towns (Periphery) Control Bill, 1975 (Bill No. 15 of 1975) after having received the assent of the President of India on the 2nd August, 1976, is hereby published in the Rajpatra, Himachal Pradesh, as Act No. 33 of 1976.

M. C. PADAM,
Under Secretary (Judicial).

Act No. 33 of 1976.

**THE HIMACHAL PRADESH NEW TOWNS (PERIPHERY) CONTROL
ACT, 1976**

AN
ACT

to check mushroom growth and ribbon--like development along road sides of towns, colonies and dams as well as their peripheries in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be, called the Himachal Pradesh New Towns (Periphery) Control Act, 1976.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. (1) The provisions of this Act shall apply to the area adjacent to and within a distance of two miles all sides of the outer boundary of the land acquired for a town, dam or colony specified in the Schedule.

Operation
of Act.

(2) At any time after the commencement of this Act, the State Government may from time to time, by notification,—

(a) include any town, dam or colony in the Schedule and thereupon the provisions of this Act shall apply to such town, dam or colony;

(b) exclude from the operation of this Act any town, dam or colony included in the Schedule.

3. In this Act, unless the context otherwise requires,—

Definitions

(1) “agriculture” includes horticulture and planting and upkeep of orchard;

(2) “building” has the same meaning as is assigned to it in clause (2) of section 2 of the Himachal Pradesh Municipal Act, 1968;

(3) “Deputy Commissioner” means, the Deputy Commissioner of the district, in whose jurisdiction the town, dam or colony is situated and includes any person or persons at any time appointed by the State Government to perform all or any of the functions of the Deputy Commissioner under this Act;

(4) “Commissioner” means, the Divisional Commissioner, Himachal Pradesh and includes any person for the time being appointed by the State Government to perform all or any of the functions of the Commissioner under this Act;

(5) “prescribed” means prescribed by rules made under this Act;

(6) “road” means a metalled or unmetalled road, whether a thoroughfare or not, accessible to the public and maintained by the State Government or by a local authority;

- (7) the expression "erect or re-erect any building" has the same meaning as is assigned to it in clause (10) of section 2 of the Himachal Pradesh Municipal Act, 1968:
- (8) "notification" means notification issued under the authority of the State Government and published in the Rajpatra, Himachal Pradesh;
- (9) "State Government" means the Government of Himachal Pradesh;
- (10) "schedule" means schedule to this Act.

Declaration
of controlled
area.

4. (1) The State Government may, by notification, declare the whole or any part of the area to which this Act extends to be a controlled area for the purposes of this Act.

(2) Not less than three months before making a declaration under sub-section (1), the State Government shall cause to be published in the Official Gazette, and in at least two newspapers printed in a language other than English, a notification stating that it proposes to make such a declaration and copies of the notification or of the substance thereof shall be published by the Deputy Commissioner in such a manner as may be prescribed at his office and in the area desired to be controlled.

Publication
of plans of
controlled
area.

5. (1) The Deputy Commissioner shall within three months of the declaration under sub-section (1) of section 4 deposit at his office and at such other places as he considers necessary, plans showing the area declared to be controlled area for the purposes of this Act, signifying therein the nature of the restrictions applicable to the controlled area.

(2) The plans so deposited shall be, in the form prescribed and shall be available for inspection by the public free of charge at all reasonable times.

Restrictions
in a controll-
ed area.

6. Except as provided hereinafter, no person shall erect or re-erect any building, or make or extend any excavation or lay out any means of access to a road in the controlled area save in accordance with the plans and restrictions referred to in section 5 and with the previous permission of the Deputy Commissioner.

Application
for permis-
sion and the
grant or
refusal of
such per-
mission.

7. (1) Every person desiring to obtain the permission referred to in section 6, shall make an application in writing to the Deputy Commissioner in such form or containing such information in respect of the building, excavation or means of access to which the application relates as may be prescribed.

(2) On receipt of such application the Deputy Commissioner, after making such enquiry as he considers necessary, shall by order in writing either,—

- (a) grant the permission subject to such conditions, if any, as may be specified in the order, or
- (b) refuse to grant such permission.

(3) When the Deputy Commissioner grants permission subject to conditions, or refuses to grant permission under sub-section (2), the conditions imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case and the interest of the general public.

(4) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building, if such building is required for purposes subservient to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for such purposes.

(5) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the notification under sub-section (1) of section 4 was made, nor he shall impose any condition in respect of such erection or re-erection unless he is satisfied after hearing the applicant that there is a probability that the building will be used for a purpose or is designed in a manner other than that for which it was used or designed on the date on which the said notification was made.

(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner, no order in writing has been passed by the Deputy Commissioner, permission shall, without prejudice to the restrictions signified in the plans under section 5, be deemed to have been given without the imposition of any conditions.

(7) The Deputy Commissioner shall maintain a register as may be prescribed with sufficient particulars of all cases in which permission is given or deemed to have been given or refused by him under this section, and the said register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom.

8. (1) Any person aggrieved or affected by an order of the Deputy Commissioner under sub-section (2) of section 7, granting permission subject to conditions or refusing permission, may within sixty days from the date of such order prefer an appeal to the Commissioner.

Appeal.

(2) The order of the Commissioner on appeal shall be final.

9. A person whose application has been refused or whose application has been granted subject to conditions under sub-section (2) of section 7, shall be entitled to claim compensation within three months of the order of the Deputy Commissioner under section 7 or the order of the Commissioner under section 8, if any, as the case may be, for any injury, loss or damage actually suffered on account of the order, in the manner hereinafter provided.

Compensation.

10. (1) An application for compensation shall lie to an arbitrator appointed by the State Government in this behalf.

Arbitration for compensation.

(2) Such arbitrator shall be a District Judge or an Additional District Judge and he shall have all the powers of an arbitrator under the Indian Arbitration Act, 1940, and the provisions of the said Act shall, so far as may be, apply in relation to proceedings before him.

(3) In computing the compensation to be awarded, regard shall not be had to any consideration for advantages to be gained or improvements to be made in any land or building in the controlled area, with reference to their development or intended development in the future, or to increase in value as a result of the development of the towns and colonies or dams area situated in such areas.

(4) The arbitrator shall have power to reject the application after due enquiry or to make an award for compensation.

Saving.

11. Nothing in this Act shall affect the power of Government or any other authority to acquire land or to impose restrictions upon the use and development of land comprised in the controlled area under any other law for the time being in force, or to permit the settlement of a claim arising out of the exercise of powers under this Act by mutual agreement.

Prohibition
on use of
land in con-
trolled area.

12. (1) No land within the controlled area shall, except with the permission of the State Government, be used for purposes other than those for which it was used on the date of notification under sub-section (2) of section 4, and no land shall be used for the purposes of a characoal-kiln, pottery-kiln, lime-kiln, brick-kiln or brick field except under and in accordance with the conditions of a licence from the Deputy Commissioner on payment of such fees and under such conditions as may be prescribed.

(2) The renewal of such licences may be made annually on payment of such fees as may be prescribed.

(3) No person shall be entitled to claim compensation for any injury, damage or loss caused or alleged to have been caused by the refusal to issue or renew a licence except in case where such kiln was in existence at the time of notification under sub-section (2) of section 4, and in which case an application shall lie to the arbitrator within three months of the order of refusal in the manner provided in section 10.

Offences
and penal-
ties.

13. (1) Any person who—

- (a) erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 6 or in contravention of any conditions imposed by an order under section 7 or section 8; or
- (b) uses any land in contravention of the provisions of sub-section (1) of section 12.

shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention.

(2) Without prejudice to the provisions of sub-section (1), the Deputy Commissioner may order any person who has committed a breach of provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within three months of the order, may himself take such measures as may appear to him to be necessary to give effect to the order and the cost of such measures shall be recoverable from such person as an arrear of land revenue.

Trial of
offence.

14. No court inferior to that of a Magistrate of the First Class shall be competent to try any offence, punishable under this Act.

Indemnity.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

16. Nothing in this Act shall apply to—

Exemption.

- (a) any building for residential purposes or solely for agricultural purposes in the *abadi* area of any village as defined in the revenue records;
- (b) the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a grave-yard, place of worship, cenotaph or *Samadhi* on land which is, at the time of the notification under sub-section (2) of section 4 occupied by or for the purposes of such, place of worship, tomb, *Samadhi*, cenotaph or grave-yard;
- (c) excavations (including wells) or other operations made in the ordinary course of agriculture;
- (d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes.

17. (1) The State Government may by notification make rules to carry out the purposes of this Act, subject to the condition of previous publication.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all any of the following matters, namely—

- (a) the form in which the plans under section 5 are to be displayed and the matters to be contained therein;
- (b) the form in which applications under sub-section (1) of section 7, shall be made or the information to be furnished in such applications;
- (c) the regulation of the laying out of means of access to roads;
- (d) the fees to be charged for the grant and renewal of licences under section 12, and the conditions governing such licences;
- (e) principles and conditions under which application for permission under this Act may be granted or refused.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. (1) The Talwara Township (Periphery) Control, Act, 1961 and the Punjab Nangal Township (Periphery) Control, Act, 1958 as amended by Act No. 4 of 1961, in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal anything done, action taken, rules made or notification issued in exercise of the powers conferred by or under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

THE SCHEDULE

[See section 3(10)]

I. TOWNS:

(i) Sundernagar Township.

II. COLONIES:

(i) Pandoh.

(ii) Jarl.

(iii) Seog.

(iv) Sari.

(v) Sansarpur.

(vi) Slaper.

III. DAMS:

(i) Beas Dam.